



RULE-MAKING ORDER

CR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Revenue

Emergency Rule Only

Effective date of rule:

Emergency Rules

☒ Immediately upon filing.

☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☒ Yes

☐ No

If Yes, explain: **Emergency rule findings are required; see below.**

Purpose: WAC 458-20-102 (Rule 102) currently explains the resale certificate and conditions under which a buyer may furnish a resale certificate to a seller. Effective January 1, 2010, reseller permits will replace resale certificates as the means to substantiate wholesale sales. Chapter 563, Laws of 2009.

The Department of Revenue (Department) is amending Rule 102 to explain the reseller permit and conditions under which a buyer may furnish a reseller permit to a seller. The information provided in the current Rule 102 is being incorporated into a new Rule 102A because this information will be needed for wholesale transactions occurring before January 1, 2010 until the normal limitation periods for assessments and refunds run.

Citation of existing rules affected by this order:

Amended: **WAC 458-20-102 Reseller Permits**

Statutory authority for adoption: **RCW 82.32.300 and 82.01.060 (2)**

Other authority :

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: **An emergency adoption of these rules is necessary because permanent rules cannot be adopted at this time. This rule action will:**

- **Provide needed guidance in an amended Rule 102 regarding reseller permits, which become effective on January 1, 2010; and**
- **Explain that the resale certificate, which has historically been the documentation used to substantiate wholesale sales, cannot be used to substantiate wholesale sales made on or after January 1, 2010. Information regarding resale certificates needs to be retained at this time, however, because this information is needed for sales made within the normal limitation periods for assessments and refunds prior to January 1, 2010. This information is provided in a new Rule 102A.**

Date adopted: December 31, 2009

NAME (TYPE OR PRINT)

Alan R. Lynn

SIGNATURE

TITLE Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 31, 2009

TIME: 3:13 PM

WSR 10-02-058

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>2</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>2</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____